

# **EHAP Capital Development Deferred Loan Program Frequently Asked Questions April 4, 2003**

*Note: Questions and answers are categorized by relevant Application Section topic. Bold text in the answer directs the reader to where the topic may be located in the NOFA, Application and/or EHAP Regulations.*

- **General Applicant Information – Section C. of the Application**
- **Applicant Capability – Section I. of the Application**
- **Impact and Effectiveness – Section II. of the Application**
- **Cost Efficiency – Section III. of the Application**
- **Local (DLB) & Statewide Priorities – Sections IV. & V. of the Application**

## General Applicant Information – Section C.

### 1. What is the maximum number of Application submissions allowed?

- A) *Each funding round a single applicant may submit one application per site (defined as a legal parcel or contiguous parcels). Applicants may also submit multiple applications, but the maximum loan amount per funding round per applicant within a county is \$1,000,000. **NOFA page 3, Item C.***
- B) *Additionally, a **policy** has been established regarding applicants that may want to submit an application for a project on the same site for which the organization previously received an EHAPCD Award:*

*“...Regarding EHAP Regulations, Section 7966 (c)..., the legal office does not interpret this regulation to mean that once EHAPCD makes a maximum \$500,000 capital development grant to a site, the site may never again receive another grant. Rather, the \$500,000 limitation is for a specific capital development activity or project (as defined in 7961 (a) (2) and (8)) and per funding round.”*

*In general, agencies are ineligible to apply for more money for the same project for which they have already received a grant. Otherwise, the subsequent grant would violate basic contract law in that the grantee had already agreed to complete a capital development project according to a certain timeframe and a certain budget. Further, it could violate 7966 (c) by stringing together grants from different funding rounds that would exceed the \$500,000 per project per site limit. Our general guideline is that when we make a grant, it should fund a feasible project that will be completed during the term of the grant.*

*Regarding the hypothetical application from a grantee for a project on the same site but for a set of activities or a project that is distinctly different from the first project, such as rehabilitation of a different building on the same parcel of land, such an application would be eligible, upon the completion of the original project. As long as the proposed capital development activity is not dependent on the prior grant, it is a viable project on its own, and can be independently evaluated and underwritten, it is eligible. Since there are so many factors to consider, we will have to determine each individual project's eligibility on a case-by-case basis.*

### 2. Can EHAPCD be used to pay off gap financing or an existing debt?

*Use of bond funds to pay off existing permanent debt would rarely qualify as an eligible EHAPCD expense, per **EHAP Regulations, Section 7966 (a)**, which defines eligible activities as the acquiring, constructing, converting, expanding or rehabilitation of emergency shelter or transitional housing sites, or the purchase of equipment.*

*Construction or bridge loans are in a different category. These are short-term loans, typically based on some well established event like completion of construction or the temporary fronting of funds while EHAP payment is being processed. Payoffs of construction or bridge loans would be acceptable if the loans were incurred after the execution of the EHAP standard agreement and were for EHAP allowable costs.*

*All loan pay-off requests should be submitted to EHAPCD in writing prior to application submittal.*

**3. What determines whether EHAP is in first or junior lien position?**

*EHAPCD prefers to be in first lien position whenever possible. On a case-by-case basis, the program will negotiate an “other than first position” with other existing or potential permanent lenders when the State deems it necessary and appropriate to do so. Note that the property must have an appraised value at least equal to the EHAPCD loan plus any debt senior to the EHAPCD loan. NOFA page 5, Item H.*

**4. If a nonprofit corporation is working with a local public agency, who is the applicant?**

*Generally the applicant would be the entity that provides and/or will provide the housing services throughout the 5 year minimum/10 year maximum term of the EHAPCD loan. That organization would also have to administer the funds. The working relationship between the collaborating parties should be documented in the EHAPCD application by submitting a full copy of the working contract. NOFA page 2 and EHAP Regulations, Section 7959.*

**5. What does EHAPCD mean by “meeting threshold requirements”?**

*Meeting threshold means the application meets the requirements of EHAP Regulations, Sections 7959, 7960, 7961 and 7962. An example of a threshold requirement would be page 4 of the Application, the Certification of Applicant Information. NOFA page 8, Item F.*

**6. How many Applications were received in the last EHAP funding round?**

*During the 2000/2001 EHAPCD funding round, the program received 119 applications, which resulted in 62 awarded contracts. We estimate that the \$31 million available for the 2002/2003 funding round will generate 80 applications.*

**7. Can you apply for both emergency shelters and transitional housing on the same Application?**

*Yes. The Application has been revised to allow this. On page 9 of the application, mark the appropriate shelter type(s) from the following options: emergency shelter, transitional housing, and/or safe haven. If your organization will be submitting an application for a facility providing multiple types of housing assistance, please complete the questions starting on page 10 in C. 2, Applicant Eligibility, twice or three times, once for each type of housing present or to be present on your project site. NOFA page 2 (rev. 3/5/03), Item B.*

**8. Who signs the “Attest” line on the Authorizing Resolution?**

*The Secretary or an individual other than the Authorized Representative is the “Attest” signatory. Double check your final Authorizing Resolution before it is executed by all parties because the “Attest” and corresponding signature line may be unintentionally deleted from the document due to its position at the bottom of the page. See page 19 of the Application for this document’s required format and language.*

**9. How should we limit our answers on open-ended questions?**

*Limit your narratives to the space provided after each question presented in the application and the additional space on Page 68. Please do not change page count. Use no smaller than 12 point type, single spaced text and a minimum of one-half inch side margins. **General Instructions on page 1 of the Application.***

**10. Is access to emergency housing with centralized intake allowed?**

*Yes, as long as the organization can favorably answer the questions in Item C. 2.Applicant Eligibility regarding Serving Selected Service Populations that commence on **page 10 of the Application.***

**11. Is there a minimum stay required in transitional housing?**

*Per the definition of transitional housing in EHAP Regulations there is no minimum required stay. The maximum occupancy is 24 months. **EHAP Regulations, Section 7950.***

**12. Can we charge a client \$1 per month rent for the emergency shelter?**

*Applicants may not require a fee, voucher, or contribution from the client for emergency shelter and cannot deny shelter due to inability to pay. **EHAP Regulations, Section 7959 (h)(1)-(3).***

**13. If we are setting aside 10% of a transitional housing client's rent, should the client earn interest on those monies?**

*Rental deposits are generally held in non-interest bearing trust accounts. However, if interest is earned, it is not a regulatory requirement that interest be paid back to the client along with the rent set-aside. **EHAP Regulations, Section 7959 (k).***

**14. What instructions would you give to organizations who are serving selected populations?**

*In the Application, read Addendum A, "Serving Selected Populations" on **pages 76 and 77.** Then beginning on **page 10 of the Application**, answer the applicable questions that continue on to page 15. If the applicant must answer "No" to any of these questions, call EHAPCD staff office to discuss the proposed project's eligibility.*

**15. Does mandatory participation in a 12-step recovery program constitute an ineligible requirement?**

*No. In fact, a 12-step recovery program is considered a self-sufficiency development service. A transitional housing applicant must offer a minimum of three such self-sufficiency development services and a client must participate in at least one such service, per **EHAP Regulations, Section 7959 (1) (2) & (3).** However an applicant would not meet eligibility requirements if they required, as a condition of housing, participation in religious or philosophical ritual, service, meeting or rite per **EHAP Regulations, Section 7959 (d).***

**16. What are eligible administrative costs?**

*EHAP Regulation 7961 (a) allows payment of up to 5% of the total grant amount for administrative costs. Generally these include documentable costs for the applicant's administrative staff and overhead directly related to the Capital Development project.*

**17. Are planning and engineering fees eligible costs?**

*Planning and engineering fees directly related to the EHAPCD project are eligible costs as defined in the **EHAP Regulations, Section 7961 (c) (1) – (2)**. Reimbursement should be requested based on the related development activity line item (i.e. construction or rehabilitation).*

**18. Are beds an eligible cost?**

*Beds are not eligible for EHAPCD funding as equipment unless they are built-in and permanently attached to real property and part of a larger integrated construction contract.*

**19. Is the repair of a deteriorated parking area an allowable cost?**

*EHAPCD monies cannot be used for establishing or repairing parking lots or landscaping as they are deemed unnecessary for the provision of client housing. **NOFA page 3 and EHAP Regulations, Section 7962 (d)**.*

**20. Is purchase of commercial grade equipment in manufactured housing an eligible cost?**

*Yes, if the equipment is a built-in part of the manufactured unit.*

**21. Can Phase I costs be included?**

*Yes, if the expenses for the Report and Recommendations are incurred after the execution date of the loan's Standard Agreement. Additionally, an applicant's request to use EHAPCD funds to pay for reasonable Phase I expenses at a development must be included in the application's project budget and must be itemized as an EHAPCD development cost. **EHAP Regulations, Section 7961 (c) (1)-(2)**.*

**22. Does EHAP require the project to pay "prevailing wage" for labor?**

*The Department of Industrial Relations (DIR) will enforce the provisions of SB 975 (Prevailing Wage Labor Law). This law applies to EHAPCD funding commitments evidenced by Standard Agreements executed on or after January 1, 2002. Note that Federal and State prevailing wage requirements may differ. All specific questions regarding prevailing wage requirements, should be directed to the DIR.*

**23. Can the project use voluntary labor?**

*Yes, pursuant to the requirements of **EHAP Regulations, Sections 7971 and 7972**.*

**24. How are funds released on a construction project?**

*Funds are released through a third party escrow that is chosen by the applicant and is FDIC insured. Generally, the construction drawdown schedule should be part of the project's integrated construction contract. The first draw is usually for administrative funds, if requested, and may include the first construction draw if the project has submitted their disbursement conditions, Request for Disbursement, and Request for Disbursement for Construction Related Expenses forms. These forms are located on our program's web page: [www.hcd.ca.gov/ca/ehap/ehap-capdev](http://www.hcd.ca.gov/ca/ehap/ehap-capdev).*

**25. What if only part of the project facility is transitional housing?**

*A mixed project is acceptable, provided our EHAPCD funds are used for those parts of the project for which EHAPCD funding is permissible. Therefore, the applicant needs to:*

- Provide project information for the entire facility, but specify only qualifying transitional housing activities and costs.*
- Demonstrate other funding sources to cover the non-fundable activities.*

**26. What happens if an applicant needs to change sites after the project is funded?**

*Written requests for a proposed budget change are measured for compliance based on **EHAP Regulations, Section 7973**. Budget changes must be requested in writing. In a competitive award system such as EHAPCD's, a large portion of the competitive score is given based on the feasibility of the project. The project site is an integral part of this feasibility. The individual request would have to comply with the requirement that the requested change not affect the list of awarded applications in a manner which would cause another application to be added to or removed from the list.*

## **Applicant Capability**

**27. Can we use budget spreadsheets in our own format?**

*Yes, if all columns are titled the same as on the forms provided in the Application.*

**28. What are the preliminary title report requirements?**

*It is preferred that all applicants submit a preliminary title report dated within 6 months of the application due date. However, site owners may submit a copy of a Grant Deed, plus a Policy of Title showing the legal description and plat map of the property. A preliminary title report will be listed as a loan condition. When the EHAPCD loan is ready to close, the applicant must then submit a preliminary title report dated less than 60 days from the anticipated date of loan closing to evidence an open escrow and to provide title information for EHAPCD staff.*

**29. If the proposed project is for acquisition of bare land in conjunction with new construction, what does the applicant need to answer?**

*There are less Appendices and Attachments to submit if the EHAPCD funds are being requested for acquisition. Applicants should mark N/A to the following: Appendices B, D, and J, and Attachments F, G, I, M, and S.*

**30. When is Attachment I "Certification of Occupancy" required?**

*The Certificate of Occupancy is required for rehabilitation of an existing structure. It is used to verify capacity. **Application page 27 (rev. 3/5/03).***

**31. Should an appraisal be included in Application package?**

*Yes, if it is available, include as Attachment K a market value appraisal of the development parcel or existing facility. The appraisal should be by a California licensed appraiser, or by someone with like kind experience, plus be dated less than six months from the application date. If an appraisal is not included with the submission package, it will be required prior to loan closing. Leveraging credit for the market value of the property cannot be given to an applicant without at least a certified Brokers' Price Opinion (BPO) of the project site's value. **NOFA page 5 (rev. 3/5/03).***

**32. Can data from Attachment B be used in Attachment P?**

*No, both Attachments are needed. Additionally, the Annual Fiscal Report will generally be more current than the tax returns. **Application page 3.***

**33. Who signs off that a project is free of environmental problems?**

*The compliance conditions are set by the licensed engineer in the Phase I Report. The applicants must budget to meet the recommendations outlined in the report and make sure that all compliance conditions are met. EHAPCD staff will also require that all conditions that have been budgeted are part of the development plan and/or the integrated construction contract prior to the EHAPCD close of escrow. Final environmental compliance is the responsibility of the project developer and the local building authority.*

**34. Will a covenant be allowed on site control?**

*The applicant is required to submit an executed purchase agreement outlining all terms and conditions of the purchase with an acquisition date of no sooner than 8 months from April 14, 2003. **NOFA page 2, Item B.***

**35. What is the required term for a leased property?**

*The remaining term of the lease is required to be at least the term of the EHAPCD Deferred Loan, (e.g., five, seven, or ten years), corresponding with the development activity being funded. **NOFA page 2, Item B., and page 3, Item D.***

**36. How much project experience (Developer, Architect) do you want to see?**

*The table should include at least a list of relevant similar low income housing projects worked on during the past 5 years. Applies to Appendix H and Attachments O-2, O-3.*

**37. Can organizations use volunteers?**

*Yes. Volunteer use is an element of cost efficiency. Volunteer hours are in the operations/capacity calculations. Include past use of volunteers and anticipated use in the table page 48 of the Application and include volunteer time on Appendix K page 53.*

- 38. Does EHAP recognize that budget costs submitted with the Application may change depending upon later detailed bids that are based on complete schematic drawings and contractor's or engineer's cost estimates?**

*We recognize that budget costs submitted at time of application are accurate estimates at the time of application and may change. See EHAP Regulations, Section 7973, regarding Budget Changes.*

- 39. Is demolition an eligible cost, if this is a construction or new construction project?**

*Yes, if it is on the project site, included in the project's cost estimate and budget plus performed after the execution of the Standard Agreement.*

- 40. Does the construction period begin with the demolition permit?**

*No, a building permit from the local authority substantiates commencement of development activities. EHAP Regulations, Section 7970 (c)(2)(A).*

- 41. Define a transitional housing unit.**

*A unit is the housing compartment for the client. In transitional housing, it would be a living compartment and may include more than one bed in a room. Include both bed and unit counts in a transitional housing application.*

- 42. What if we are currently leasing the property?**

*We require that the lease be extended to be a minimum of the term of the EHAPCD loan before EHAPCD loan closing. The lease will need to be recorded at that time. The lease must demonstrate that the applicant will have sufficient control of the real estate to enable the project to be completed and operated for the required term without jeopardizing the Department's security. Landlord and tenant should review all EHAP Security Documents. (See Provision 3 of Item 2240-105-0001 of the Budget Act of 2000.)*

- 43. If we request funds for an occupied site, when does the organization's obligation to a relocation plan begin?**

*The plan should be started the minute the applicant knows that they are applying for EHAPCD funds. A Relocation Plan should be submitted with the Application. NOFA page 4, Item G. Also refer to Government Code and Subchapter 1, Chapter 6, Title 25 of California Code of Regulations, commencing at Section 6000.*

- 44. Is a conditional use permit (CUP) required at time of Application?**

*No, but if it is available, the application will receive full points for readiness. Applicants must submit evidence of the current status of CUP acceptance as Attachment H Page 28 of the Application. Evidence of permissive zoning and the conditional use permit can be special conditioned and will be required prior to EHAPCD loan closing.*



- 45. When the Application requests occupancy information, do you want information based on our existing program or a projected number after project completion?**

*Both. That will give EHAPCD staff a full picture of what has been provided and what capacity is anticipated.*

- 46. Does the State want information based on calendar years or fiscal years on Appendix K “History and Project of Project Operating Funding Sources?”**

*When completing EHAPCD’s budget forms, use the accounting method your organization maintains in its records. Modify our Application column heading, if necessary.*

## **Impact and Effectiveness**

- 47. Are letters of support needed and if needed, where should they be placed in the Application?**

*None are needed unless they contain funding commitments. If so, include as Attachment J page 40 of the Application.*

- 48. How do we show past examples of rules, policies and conditions if we have a new project?**

*Document and submit proposed policies and conditions of stay. Remember, they must meet EHAP Regulations. Attach them as Attachment Q located on page 62 of the Application.*

## **Cost Efficiency**

- 49. For cost analysis purposes, do you take into consideration differing area types, urban vs. non-urban?**

*Yes, in that applicants whose project sites are located within urban counties compete with other applicant projects from urban counties and non-urban county projects compete with other non-urban projects. Then the urban and non-urban results are obtained from each separate competitive pool. See **NOFA page 12** for Table showing urban and non-urban counties.*

- 50. What is HCD looking for in design?**

*EHAPCD staff reviews the plans, specifications, and schematics looking for how the project will meet the fundamental needs of the homeless clients to be served, for how the project is compatible with local property uses and for how it meets local building authority requirements. **Application page 64.***

- 51. How do you evaluate cost efficiency for a project?**

*Refer to the Application pages 63-68 and EHAP Regulations, Section 7966 (i) (2).*

## **IV. and V. Designated Local Board (DLB) and Statewide Priorities**

- 52. How is the designated local board's ranking applied and how does it affect each applicant? Will there be more or less applicants per funding round?**

*A memorandum regarding this issue was issued to the DLBs February 21, 2003. EHAPCD Application page 74 (rev. 3/5/03) now outlines how the state will convert its statewide priority ranking and the DLB's ranking based on local priorities into rating points using quartiles. EHAPCD will continue to require that all DLBs rank applicants with no two projects in the same rank. However, instead of the State assigning application points by prorating the available 150 points among the submitted applicants with the top priority project getting 150 and the lowest one getting zero points, the State will group the applicants into quartiles. Thus, the top 25% of applicants from a DLB county will earn 150 points, the second group will be given 112.5 points, the third group 75 points and the final group 37.5 points. For counties with less than four applicants, the top applicant will receive 150 points, the second 112.5 points, and the third 75 points.*

- 53. Is there a date by which the designated local boards need to establish their own priorities for this funding round?**

*Yes, the due date for the DLBs to submit LESS amendments is March 14, 2003. The EHAPCD web page [www.hcd.ca.gov/ca/ehap/ehap-capdev.html](http://www.hcd.ca.gov/ca/ehap/ehap-capdev.html) has been updated with a Chart which displays which DLBs have submitted and received acceptance for their 2002-2003 EHAPCD local priorities. Applicants with projects located in those counties (marked "Yes" in the "Local Priorities Accepted" column) are to contact their DLBs for Section IV. Once Section IVs are complete, applicants are to insert them in their application package and submit their Applications directly to EHAPCD. The state will then copy the Section IVs and send them to the DLBs for Rating and Ranking. NOFA page 1 (rev. 3/5/03).*

- 54. How will the local board score a project?**

*The Designated Local Boards have amended their Local Emergency Shelter Strategies (LESS), incorporating their EHAPCD local priorities for their counties/regions. They have developed forms reflecting these local priorities as Section IV of the EHAPCD application. Applicants must include these Section IVs as part of the project applications that are sent to EHAPCD. EHAPCD will then send a copy of relevant Section IVs to local DLBs. The local boards then rank each project based on how the project meets the community needs as prioritized in their LESS Amendment.*

- 55. Does the DLB need to respond each year?**

*Based on the Housing Bond act of 2002, each year the DLBs will be required to decide if they will submit their local priorities to EHAPCD.*

- 56. What if you have a purchase agreement but not ownership for Priority Area III Project Readiness of the Statewide Priorities?**

*That will not meet the readiness requirement of having fee title, as the site has not yet been acquired. **page 74 of the Application.** Additionally, a lease with a term no less than the EHAPCD loan term also will not meet the readiness requirement as experience has indicated that leasehold properties have several additional readiness steps, and therefore generally take*

*longer to close. Remember that the total number of points for an applicant for Statewide or Local Priorities is 150 of 1,000 maximum possible competitive points.*

**57. Where does an applicant include evidence of a written commitment with an experienced outside developer or development consultant?**

*Include in both Attachment O and in Section V (Statewide Priorities) a copy of an executed contract between the applicant and the developer or development consultant. The contract should be for comprehensive development services, including financial packaging, selection of other consultants, selection of the construction contractor and property management agent, oversight of architectural design, construction management, and other major aspects of the development process.*